

## § 303.1-2

“property vested in the Attorney General” include property conveyed, transferred, assigned, delivered, or paid to or held or controlled by or vested in the Attorney General, under the Trading With the Enemy Act.

(i) *Engaged in trade or business in the United States.* The term “engaged in trade or business in the United States” includes the managing and renting of real estate in the United States by an agent of the Attorney General or of the former owner duly authorized to execute rental agreements and to pay all taxes and charges incident to the repair and maintenance of such property, but does not include the mere renting or leasing of property under an agreement requiring the lessee or occupant to pay taxes and to make repairs or improvements.

(j) *Tax.* The term “tax” has the meaning stated in section 36(d) of the Trading With the Enemy Act as added by the Act of August 8, 1946.

## § 303.1-2 Application of part.

(a) *Property covered.* This part is applicable in connection with property vested in the Attorney General on and after December 18, 1941. It is not applicable in connection with property or interest in property so vested or acquired by the United States prior to December 18, 1941, which property or interest is governed by Treasury Decision 4168, approved June 21, 1928, as amended by Treasury Decision 4254, approved January 7, 1929, and Treasury Decision 4514, approved January 18, 1935 (26 CFR (1938 ed.) 452.1-452.10).

(b) *Taxes covered.* Except as otherwise provided by specific exemption applicable with respect to the Alien Property Custodian, this part applies in the circumstances therein indicated, to any internal revenue tax applicable in respect of (1) property vested in the Attorney General or any action or transaction incidental to such property, or (2) any person whose property is so vested or any action or transaction of such person, whether the tax is applicable in respect of the period of vesting or any other period. Federal employment taxes are applicable with respect to wages paid to a person not a regular Government employee, permanent or temporary, for services immediately

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connected with the operation of an enterprise under control of the Attorney General such as might be rendered to a private operator.

## § 303.1-3 Protection of internal revenue prior to tax determination.

(a) *Suits and claims for return of vested property*—(1) *General.* The provisions of this paragraph apply in cases where there has been neither a final nor a tentative determination of internal revenue tax liability. See paragraphs (e) and (f) of § 303.1-4. In such cases vested property shall not be returned except in accordance with this paragraph.

(2) *Notice to Commissioner*—(i) *Suits for recovery.* Where suit for the return of vested property has been instituted under section 9 of the Act, within a reasonable time after answer has been filed or after beginning of the trial of the case, the Attorney General shall, in writing, notify the Commissioner of the property involved and the name, address, citizenship, residence, and business organization of the claimant, and any other pertinent information.

(ii) *Return without suit.* At least 90 days prior to any return of vested property pursuant to section 32 of the Act the Attorney General shall in writing notify the Commissioner in the manner prescribed in subdivision (i) of this subparagraph.

(3) *Return of property*—(i) *Without security.* Vested property, the subject of a suit or proceeding pursuant to the Trading With the Enemy Act, may be returned without security prior to determination of applicable internal revenue taxes and prior to the judgment of the court or publication of the order of the Attorney General directing such return, to the following described claimants under the conditions hereinafter stated:

(a) *Residents and domestic enterprises.* In the case of claimants who at the time of return are (1) individuals permanently resident in the United States since December 7, 1941, or (2) corporations or other business enterprises organized under the laws of the United States, or any State, Territory, or possession thereof, or the District of Columbia, or doing business in the United

States, the Attorney General may return the property at any time without notice to the Commissioner of such return.

(b) *Nonresidents, etc.* In the case of claimants who at the time of return are (1) individuals not permanently resident of the United States since December 7, 1941, or (2) nondomestic corporations or other nondomestic business enterprises not doing business within the United States, the property may be returned not less than 90 days after notice by the Attorney General to the Commissioner in a case within subparagraph (2)(i) of this paragraph (a), or not less than 60 days after notice in a case within subparagraph (2)(ii) of this paragraph (a), unless within such time the Attorney General is advised otherwise by the Commissioner.

(ii) *When security required.* Except as provided in subdivision (i) of this subparagraph vested property shall not be released prior to determination of tax liability without security satisfactory to the Commissioner, but determination of tax liability will be expedited in order that release of the property or of the security shall not be unnecessarily delayed.

(4) *Security.* Security when required shall be such of the following as shall, in the judgment of the Commissioner, be appropriate:

(i) *Bond.* A bond of the claimant conditioned upon payment of the full amount of internal revenue taxes determined to be due, filed with the district director in such amount, and with such sureties, as the Commissioner deems necessary. Only surety companies holding a certificate of authority from the Secretary of the Treasury may be used.

(ii) *Collateral security.* Collateral authorized by law deposited by the claimant in lieu of surety conditioned upon the payment of the full amount of internal revenue taxes determined to be due.

(iii) *Reservation of assets.* Moneys, or if the moneys are insufficient, so much of the other property involved, to be reserved by the Attorney General, as will be sufficient in the judgment of the Attorney General to cover any internal revenue tax liability determined by the Commissioner.

(b) *Vested property subject to debt claims*—(1) *Notice to Commissioner.* With respect to vested property available for the payment of debt claims under section 34 of the Act, and with respect to which debt claims have been filed, prior to the allowance of any such claims the Attorney General shall, in writing, notify the Commissioner of the property involved, the citizenship, residence, business organization, and other necessary information concerning the debtor and the aggregate of debt claims filed in respect thereof.

(2) *Action by Commissioner.* Upon receipt of the notice provided in subparagraph (1) of this paragraph (a), the Commissioner shall, as soon as practicable and not later than 120 days after receipt of notice, unless the time is extended by the Commissioner after notice to the Attorney General—

(i) Determine the taxes payable by the Attorney General in respect of the debtor, or

(ii) Advise the Attorney General of the provision, if any, to be made by him for payment of taxes in respect of the debtor.

#### § 303.1-4 Computation of taxes.

(a) *Detail of employees of the Internal Revenue Service.* The Commissioner will detail for the assistance of the Attorney General such employees of the Internal Revenue Service as may be necessary to make the computations under this part promptly and accurately.

(b) *Relationship of Attorney General and former owner.* In the computation of tax liability under this part, except as otherwise provided in this part, the vesting of property shall not be considered as affecting the ownership thereof; and any act of the Attorney General in respect of such property (including the collection or operation thereof and any investment, sale, or other disposition and any payment or other expenditure) shall be considered as the act of the owner. Nevertheless, except as otherwise provided in the Act or this part, insofar as taxes are incident to vested property during the period of vesting, they shall be payable by the Attorney General, except that to the extent of the value of any of the property returned to the former owner the latter